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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,548	02/27/2007	Stephen George Dawe	7984-88126	2260
42798	7590	12/21/2009	EXAMINER	
FITCH, EVEN, TABIN & FLANNERY			SINGH, SUNIL	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/577,548	<b>Applicant(s)</b> DAWE, STEPHEN GEORGE
	<b>Examiner</b> Sunil Singh	<b>Art Unit</b> 3672

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12/14/09.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 4,5,7,8,10 and 14-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 4,5,7,8,10,14-18 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/GS-68)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 4,5,7,8,14-17,10,18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese document '199 in view of Kovacs (US 3469407)

Japanese document '199 discloses a rock bolt which in use is inserted in a drill hole extending from a rock face into a rock body and which includes: a radially expandable elongate tubular member (2) which is formed with an inlet through which a pressurized fluid can pass into (see abstract) an interior of the tubular member, thereby to expand the tubular member in a radial direction (see Fig. 2) and so effect a first frictional anchoring action of the tubular member with a wall of the drill hole at a first location near a mouth of the drill hole (see Fig. 4); a further elongate member (5) having a first end secured to one end of the tubular member and a second end; and another expansion anchor unit (2) that is connected to the second end of the further elongate member and which is operable to effect a second anchoring action with the wall of the drill hole at a second location that is displaced from the first location. Re claim 4, see Fig. 2. Re claim 5, bearing plate (see Fig. 4). Re claim 7, member (2) is swaged, welded or threadedly engaged with shank (5). Re claim 8, the one end of the tubular member (2,3) encloses the first end of the shank (5). Re claim 15, the first end (3) of the further elongate member (5) is directly

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secured to the tubular member (2). Re claim 16, includes a coupling device (3) which is secured to the tubular member (2) and the further elongate member (5) is indirectly secured to the tubular member by being detachably threadedly engaged with the coupling device. Japanese document '199 discloses the invention substantially as claimed. However, Japanese document '199 is silent about including a mechanical expansion anchor unit including a wedge member, a plurality of shells which are movable by the wedge member to effect the second anchoring section. Kovacs teaches an expansion anchor unit (12) including a wedge member (16), a plurality of shells (18,19) which are movable by the wedge member to effect the second anchoring section. It would have been considered obvious to one of ordinary skill in the art to modify Japanese document '199 by substituting at least one of the anchoring means as taught by Kovacs for at least one of the anchoring means disclosed by Japanese document '199 since the substitution of one known element for another would have yielded predictable results. Furthermore, it is obvious to have the distal anchoring means of Japanese document be replaced with the anchoring means taught by Kovacs since such a modification allows one to still be able to inject the expandable fluid to expand the expandable anchor.

With regards to claim 10, it would have been considered obvious to include a biasing means in order to keep the anchoring means together during transportation.

***Response to Arguments***

3. Applicant's arguments filed 11/12/09 have been fully considered but they are not persuasive. Applicant argues that the prior art fail to teach a tubular member having a sealed or

closed end connected to one end of a further elongate member. The examiner disagrees. Clearly member (2) has a sealed end (via member 3) connected to one end of a further elongate member (5). This is the case otherwise expanding fluid would escape through coupling (3) and the expanding pipe 2 would not function. The limitation closed end is far more limiting than the claimed subject matter. Applicant argues that the prior art fail to teach an expandable anchor and mechanical anchor whose anchoring operations are independent of each other. It should be noted that the claims are directed to an apparatus/product (rock bolt); therefore, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Therefore, upon modifying Japanese document '199 by substituting at least one of the anchoring means as taught by Kovacs for at least one of the anchoring means disclosed by Japanese document '199, the limitations of having an expandable anchor and mechanical anchor whose anchoring operations are independent of each other are met. Applicant argues that there is not reason to combine Japanese document with the teachings of Kovacs. As set forth by the Supreme Court in the KSR decision, the substitution of one known element for another to yield predictable results is an obvious substitution to one of ordinary skill in the art. By having an expandable anchor and mechanical anchor one can overcome the deficiencies of the expandable anchor by having the mechanical anchoring means on the other hand once can overcome the deficiencies of the mechanical anchor by having the expandable anchoring means. Applicant argues that it is not clear which one of the Japanese anchor (2) would be replaced with the anchoring means taught by Kovacs. It is clearly obvious it would be the anchoring means at the

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distal end of Japanese document that would be replaced by the anchoring means taught by Kovacs otherwise one would not be able to inject the expandable fluid to expand the expandable anchor.

***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunil Singh whose telephone number is (571) 272-7051. The examiner can normally be reached on Monday through Friday 10:30 AM - 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bagnell can be reached on (571) 272-6999. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sunil Singh/  
Primary Examiner, Art Unit 3672

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Primary Examiner  
Art Unit 3672

SS

12/15/09

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